



House of Representatives

General Assembly

File No. 306

January Session, 2015

Substitute House Bill No. 5379

House of Representatives, March 31, 2015

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE PENALTY FOR ASSAULT OF AN OFF-DUTY POLICE OFFICER.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-167c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) A person is guilty of assault of public safety, emergency medical,
4 public transit or health care personnel when, with intent to prevent a
5 reasonably identifiable peace officer, special policeman appointed
6 under section 29-18b, motor vehicle inspector designated under section
7 14-8 and certified pursuant to section 7-294d, firefighter or employee of
8 an emergency medical service organization, as defined in section 53a-3,
9 emergency room physician or nurse, health care employee as defined
10 in section 19a-490q, employee of the Department of Correction,
11 member or employee of the Board of Pardons and Paroles, probation
12 officer, employee of the Judicial Branch assigned to provide pretrial
13 secure detention and programming services to juveniles accused of the

14 commission of a delinquent act, liquor control agent, employee of the
15 Department of Children and Families assigned to provide direct
16 services to children and youths in the care or custody of the
17 department, employee of a municipal police department assigned to
18 provide security at the police department's lockup and holding facility,
19 active individual member of a volunteer canine search and rescue
20 team, as defined in section 5-249, or public transit employee from
21 performing his or her duties, and while such peace officer, special
22 policeman, motor vehicle inspector, firefighter, employee, physician,
23 nurse, health care employee, member, liquor control agent, probation
24 officer or active individual member is acting in the performance of his
25 or her duties and, with respect to a peace officer who is a member of
26 the Division of State Police within the Department of Emergency
27 Services and Public Protection or an organized local police
28 department, while such peace officer is off duty, provided such peace
29 officer was not the initial aggressor, (1) such person causes physical
30 injury to such peace officer, special policeman, motor vehicle inspector,
31 firefighter, employee, physician, nurse, member, liquor control agent,
32 probation officer or active individual member, or (2) such person
33 throws or hurls, or causes to be thrown or hurled, any rock, bottle, can
34 or other article, object or missile of any kind capable of causing
35 physical harm, damage or injury, at such peace officer, special
36 policeman, motor vehicle inspector, firefighter, employee, physician,
37 nurse, member, liquor control agent, probation officer or active
38 individual member, or (3) such person uses or causes to be used any
39 mace, tear gas or any like or similar deleterious agent against such
40 peace officer, special policeman, motor vehicle inspector, firefighter,
41 employee, physician, nurse, member, liquor control agent, probation
42 officer or active individual member, or (4) such person throws or hurls,
43 or causes to be thrown or hurled, any paint, dye or other like or similar
44 staining, discoloring or coloring agent or any type of offensive or
45 noxious liquid, agent or substance at such peace officer, special
46 policeman, motor vehicle inspector, firefighter, employee, physician,
47 nurse, member, liquor control agent, probation officer or active
48 individual member, or (5) such person throws or hurls, or causes to be

49 thrown or hurled, any bodily fluid including, but not limited to, urine,
 50 feces, blood or saliva at such peace officer, special policeman, motor
 51 vehicle inspector, firefighter, employee, physician, nurse, member,
 52 liquor control agent, probation officer or active individual member.
 53 For the purposes of this section, "public transit employee" means a
 54 person employed by the state, a political subdivision of the state, a
 55 transit district formed under chapter 103a or a person with whom the
 56 Commissioner of Transportation has contracted in accordance with
 57 section 13b-34 to provide transportation services who operates a
 58 vehicle or vessel providing public rail service, ferry service or fixed
 59 route bus service or performs duties directly related to the operation of
 60 such vehicle or vessel.

61 (b) Assault of public safety, emergency medical, public transit or
 62 health care personnel is a class C felony. If any person who is confined
 63 in an institution or facility of the Department of Correction is
 64 sentenced to a term of imprisonment for assault of an employee of the
 65 Department of Correction under this section, such term shall run
 66 consecutively to the term for which the person was serving at the time
 67 of the assault.

68 (c) In any prosecution under this section involving assault of a
 69 health care employee, as defined in section 19a-490q, it shall be a
 70 defense that the defendant is a person with a disability as described in
 71 subdivision (13), (15) or (20) of section 46a-51 and the defendant's
 72 conduct was a clear and direct manifestation of the disability.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2015	53a-167c
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PS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the General Fund	GF - Potential Revenue Gain	Less than 10,000	Less than 10,000
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential cost and potential revenue gain by enhancing the penalty of an assault of a specific class of peace officers, making it a class C felony. While the number of violations that resulted in a guilty charge or plea bargain are relatively high (364 out of a total of 1,124 violations), none resulted in fine revenue. It is anticipated that this change in the statute will result in minimal fine revenue of less than \$10,000.

To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for probation and supervision in the community or incarceration would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as opposed to \$50,690 (including benefits) to incarcerate an offender.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sHB 5379*****AN ACT CONCERNING THE PENALTY FOR ASSAULT OF AN OFF-DUTY POLICE OFFICER.*****SUMMARY:**

This bill makes assault of a reasonably identifiable off-duty state or local police officer (but not other off-duty peace officers) a class C felony, provided the officer was not the initial aggressor. A class C felony is punishable by imprisonment for one to 10 years, a fine of up to \$10,000, or both. This same penalty applies, under existing law, to assault of a reasonably identifiable on-duty peace officer with intent to prevent the officer from performing his or her duties.

By law, assault of certain public safety personnel, including peace officers, to prevent them from performing their duties, is one of the serious felonies requiring an arrested person to provide a DNA sample if he or she was previously convicted of a felony and did not provide a sample (CGS § 54-102g).

EFFECTIVE DATE: October 1, 2015

ASSAULTING A PEACE OFFICER

Under current law, a person is guilty of assaulting a peace officer if he or she assaults a reasonably identifiable peace officer performing his or her duties, with intent to prevent the officer from performing them, by doing any of the following to the officer:

1. causing physical injury;
2. throwing objects capable of causing harm;
3. using tear gas, mace, or a similar harmful agent;
4. throwing paint, dye, or any other offensive substance; or

5. throwing bodily fluid, such as feces, blood, or saliva.

The bill adds assault of a reasonably identifiable off-duty police officer provided the officer was not the initial aggressor.

BACKGROUND

Peace Officers

By law “peace officers” are state or local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory authority, judicial marshals performing their duties, conservation officers or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution or facility, investigators in the State Treasurer's Office, and federal narcotics agents (CGS § 53a-3).

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 25 Nay 0 (03/12/2015)